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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,210	10/20/2003	Martin P. Lepselter	LEPS-121CO	2338
7590		09/23/2004	EXAMINER	
LEO STANGER		LEYBOURNE, JAMES J		
382 SPRINGFIELD AVE		ART UNIT		
SUMMIT, NJ 07901		PAPER NUMBER		
		2881		

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

1. Claims 1-6 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1-6 of prior U.S. Patent No. 6,635,888. This is a double patenting rejection.

Claims 1-6 of the Application are anticipated by claim 1-6 of the patent.

The claims in the application are identical to the claims in the patent.

Conclusion

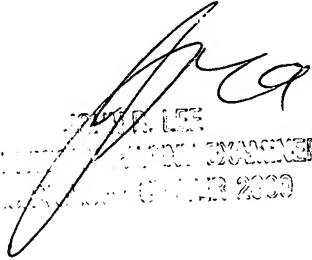
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James J. Leybourne whose telephone number is (571) 272-2478. The examiner can normally be reached on M-F 9:00- 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R Lee can be reached on (571) 272-2477. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 11, 2004

JJL


CHARLES LEE
SUPERVISING PATENT EXAMINER
OCTOBER 2000